

\$3811

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/849,768

Date: March 18, 2003

Date Filed: 5/4/2001

Examiner: Pechhold, Alexandra

Applicant: K. Krueger et al.

Group: 3671

Title: Stormwater Management System

Attorney No. STT-0003 (2307)

#17/Reg. Est
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4/23/03

RESPONSE AND AMENDMENT

1. Applicants request an extension of time for three months for filing of this response. The 3 month response date was 19 December 2002. Applicants enclose payment of \$465. If additional fees are payable, please charge deposit account No. 14-0711.

2. Please amend the claims as follows:

a. Cancel all previously pending claims, namely 1, 4-30 and 33-36

b. Please enter new claims 37-46

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REMARKS

1. Applicants have cancelled the pending claims and present new claims 37-42. They hope that in doing this they have simplified the claims, now in Jepson format, and enable focus on main issues of patentability.

Applicants continue their previous arguments and citations of patent law, particularly with respect to what the prior art must show to support a 35 USC 103 rejection; and, will not repeat all of them.

Examiner's rejection was primarily based on what the Fig. 4 (and Fig. 1, which is the same) of the Nichols '017 patent appears to show. Applicants submit two arguments in paragraphs 2-4, which they think remove Nichols '017 as a valid basis for rejection. Applicants also provide argument relative to patentability over Fouss et al. Pat. No. 4,360,042, which was relied on for rejection prior to the RCE filing. The case for patentability is emphasized when Fouss and Nichols are viewed together.

2. Applicants submit declarations of Nichols and of his then-attorney, the undersigned. The declarations emphasize, with specific references to the patent, what the Nichols' figures show and what the prior art was at the time. With respect to recitations in the declarations, applicants respectfully submit that the examiner is not correctly interpreting the Nichols patent with respect to what it shows and teaches.